



MARKET CONDUCT EXAMINATION  
OF  
NEW WEST HEALTH SERVICES

130 Neill Avenue

Helena, Montana 59601

NAIC # 95829

As of March 31, 2006

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### **Scope of Examination**

This report covers the period from April 1, 2002, through March 31, 2006, and includes a review and analysis of the operations and management of New West Health Services. This examination was conducted pursuant to the provisions of §§ 33-1-401, 33-30-105, and 33-31-401, MCA, the Administrative Rules of Montana (ARM), and in accordance with the procedures and guidelines in the *Market Conduct Examiners Handbook* as adopted by the National Association of Insurance Commissioners (NAIC).

This examination was comprised of the following twelve phases:

1. Company Operations, History and Management
2. Complaint Handling
3. Appeals/Grievances
4. Marketing and Sales
5. Network Adequacy
6. Producer Licensing
7. Provider Credentialing
8. Policyholder Service
9. Quality Assessment and Improvement
10. Underwriting
11. Utilization Review, Including Pre-authorization of Services
12. Claims

### **Company History and Operations**

New West Health Plan (NWHP) was incorporated as a Health Maintenance Organization under the laws of the state of Montana on May 14, 1997. A certificate of authority was issued to NWHP by the Montana Insurance Department on October 16, 1997. NWHP was authorized to sell Health Care services in accordance with Title 33, MCA, and formal operations commenced on March 1, 1998.

On September 30, 1999, NWHP converted from a Health Maintenance Organization to a Health Service Corporation under the name New West Health Services (NWHS). A certificate of authority to operate as a Health Service Corporation was issued to NWHS by the Montana Insurance Department on September 30, 1999. Also on September 30, 1999, a certificate of authority to operate as a Health Maintenance Organization was issued to NWHP by the Montana Department of Insurance. NWHP is a NWHS line of business.

On August 19, 2002, Montana Benefits and Health Connections, Inc., (MBHC) was incorporated as a wholly owned subsidiary of NWHS. MBHC was authorized to sell life and health insurance on September 26, 2002. Effective October 1, 2002, MBHC assumed the life and health policies of Montana Benefits and Life Company, a company in liquidation. The life insurance policies and annuity contracts were subsequently transferred via a bulk reinsurance agreement to another carrier during 2003. On April 1,



2004, the remaining health insurance policies were assumed by NWHS. MBHC changed its name to Montana Benefits Inc. as of April 1, 2004. Montana Benefits Inc. has remained a dormant company until December 20, 2005, when it voluntarily surrendered its certificate of authority to the Montana Insurance Department.

NWHS is a non-profit, mutual benefit corporation with sponsoring members which are divided into three classes. Class A members include the original non-profit, tax-exempt hospitals. These hospitals are Billings Clinic in Billings, St. Peters Hospital in Helena, Community Medical Center in Missoula, and Northern Montana Healthcare, Inc., in Havre. Class B members are non-profit, tax-exempt hospitals that became sponsors in 2005. These include Benefis Healthcare in Great Falls as of February 1, 2005, and Bozeman Deaconess Health Services in Bozeman as of April 1, 2005. Class C members would consist of small, Montana, non-profit, tax-exempt hospitals designated by Medicare as critical access hospitals. There are currently no Class C members.

New West Health Services also owns Mountain Health Network (MHN), a non-profit subsidiary of NWHS. MHN was formed August 10, 2000, and dissolved on December 1, 2004. The purpose of this organization is to develop a network of providers throughout the state and to contract with and credential these providers. The primary focus is to provide NWHS with contracted providers; however, the entity can also make the network available to self-funded employer groups.

New West Health Services operates exclusively in the state of Montana and offers the following types of health benefit plans: group and individual health maintenance organization coverage and point of service plans. They also offer indemnity plans, and individual Medicare supplements and Medicare Advantage Plans. The Medicare Advantage Plan was implemented in June 2005.

NWHS also offered the Bridge Plan in three Montana areas from November 2003 through October 1, 2006. The Bridge Plan was a demonstration project as authorized in § 33-22-262, MCA. The legislative intent was to offer a limited benefit individual health plan to previously uninsured, low income individuals. The plan covered outpatient care with low copayments and no deductible. Less than 100 of these plans were sold during the period that they were marketed.

In 2005 NWHS had written premiums of \$61,208,517 which represents 7.42% of the overall disability (disability as defined in § 33-1-207, MCA, includes health coverage) premiums written in Montana.

Members	HMO Closed	Point of Service	Indemnity	Medicare Supplement	Medicare Advantage
2005	3,845	9,253	9,315	404	353

It was noted during this examination that there was a huge turnover in key company personnel. The following is a list of names, titles, and dates some of the key upper management employees terminated their employment.

Year Employment Ended	Name of Officer/Director	Title
2002	Vincent Miles, M.D.	Chief Medical Officer
2003	Debra Broadbent Kathy Johnson	Director of Operations Controller
2004	Marc Best	Director Information Technology (IT)
	Danielle Waller	Claims Manager
	Timothy Sizemore	Director of Provider Services
	Thomas Knotts	Director IT
	Karen Fadley	Claim System Coordinator
	Denise Pizzini	General Counsel
	Mary Kay Clark	Director of Care Management
	Mary Wolfe	Administrative Services Manager
2005	David Terry	Director of IT
	Lori Ladas	Director of Finance
	Kerisa Armstrong	Premium Billing Manager
	Colleen Senterfitt	Director of Care Access
	Randy Starns	Director of Marketing
	Patrick Aberle	Chief Executive Officer
	Jeffrey Ireland	Director of Marketing
	James Kelley, M.D.	Medical Director
	Debra Thompson	Director of Human Resources
	Gayle Agostinelli	Administrative Services Manager
	Lawrence Shannon	Director of Marketing (Interim)
2006	Elizabeth Bryan	Executive Director of Government Programs
	Cynthia Young	Director of Medical Services

Turnover in upper management can often fetter a company and hinder operations deemed essential to overall performance. This situation was reported to the examiners



as being the single most difficult problem employees had to deal with during the time between 2002 and 2005.

During the time period of this examination, the company maintained a full-time internal audit position through February 2005. After February 2005, Marie Pollock of Wolcott and Associates was hired to perform outside claim audits; internal auditor responsibilities were assigned to other New West personnel. The second and third quarter audit reports for 2005 indicated a claim payment accuracy rate of 94.29%, which was less favorable than the Company standard of 98%. The Company did not have a fourth quarter audit completed for 2005, and the first quarter 2006 audit report was being reviewed by the company and unavailable for inspection at the time of this report.

The examiners requested a copy of the company's anti-fraud plan and received in response to this request a copy of the company's claim bundling audit program. This program is not an anti-fraud plan. The claim bundling program is designed to bundle multiple provider charges in order to prevent overlapping payments. Upon further inquiry, the examiners learned the company did not have an anti-fraud plan in place during the time period covered by this examination.

The examiners also requested a copy of the company's disaster recovery plan. The examiners received and reviewed the plan and noted that, although the company has adopted a disaster recovery plan, the plan has never been fully implemented and tested.

Complete records were not always available upon request by the examiners. Notably, some of the underwriting files were not available at all and some were missing key pieces of information such as the group census, cancellation notices, certificates of creditable coverage and other items. It is recommended that the company conduct a thorough review of each department and its current records and recordkeeping methods and implement a comprehensive system redesign.

The company had a contract with ACNGroup to adjudicate and assume the risk for the chiropractic claims, to credential providers, and to review the necessity of chiropractic claims. ACNGroup is an authorized, third party administrator and is a subsidiary of United Healthcare Insurance Company.

The examiners noted that the company had executed a contract with MHNet, a licensed, third party administrator, to adjudicate and assume the risk for mental health care claims, to credential providers, and to review and determine the necessity of mental health care claims. MHNet was not an authorized insurer and was not authorized to accept risk. The contract was signed by the Director of Care Management for NWHS on July 5, 2002, and MHNet continued to assume risk and process and pay claims until May 30, 2004. NWHS was responsible for complying with Montana statutes when they contracted with MHNet as its intermediary pursuant to § 33-36-209, MCA. It appears that an actual transfer of risk to MHNet occurred even though MHNet was only authorized as a third party administrator.



### **Complaint Handling/Grievance Procedures**

The company has an established complaint and grievance handling process that includes telephone calls, electronic mail, and written correspondence from its members. Fifty complaint files were reviewed and no exceptions were found. The company researches and provides a complete written response to complainants within a reasonable period of time.

### **Marketing and Sales**

All advertising materials, outlines of coverage, and policy forms used by the company during the examination period were reviewed. All materials reviewed appeared to be in compliance with Title 33 MCA and the Administrative Rules of Montana.

### **Network Adequacy**

Montana statutes regarding network adequacy became effective October 1, 1999. The Department of Health and Human Services (DPHHS) promulgated rules to describe the process for determining if a company has an adequate network in a given geographic area. Companies must have a hospital, a primary care physician, and a pharmacy within a 30-mile radius of the enrollee's place of business or home in order to have an adequate network in a geographic area. DPHHS determined that NWHS has 27 geographic service areas where it is feasible to have an adequate network of health care providers.

A random sample of 50 group and individual policies was reviewed and each of the products sold was to a group or individual residing in one of the 27 areas identified as being adequate by DPHHS.

### **Producer Licensing**

The company's list of appointed producers was compared with and verified by records at the Department of Insurance. No exceptions were noted.

### **Provider Credentialing**

Section 33-36-203, MCA, and 37.108.216, ARM, which were effective by October 1, 1999, require the company to establish a method of credentialing providers and to review the credentials of the provider prior to entering into a contract with the provider. Additionally, the credentials are to be reviewed at least every three years thereafter. A random sample of 50 providers was selected from the April 2003 thru July 1, 2005 current NWHS HMO product line provider list supplied by the company. Sixteen files contained the required credentialing information; fifteen files contained no credentialing information in violation of Section 33-36-203, MCA, and 37.108.216, ARM; eight files



were missing; four files belonged to non-par providers; four files belonged to terminated providers; one file belonged to a retired provider; one provider could not be located in *Diamond*; and one provider file was being processed.

The examiners also learned the Credentialing Committee did not review all of the provider applications as per company policy. This problem was finally addressed in April 2005. The Credentialing Committee began reviewing all provider applications received after April 2005 and the company began maintaining a complete credentialing file on every provider credentialed after April 2005 as required by 37.108.216, ARM.

### **Quality Assessment and Improvement**

The company has filed its access plan with DPHHS and contracted for the member and provider satisfaction surveys as required. The Customer Service surveys reflected a lesser degree of member satisfaction with their health plans than the national average, and the Overall Rating of Health Care surveys reflected an average degree of satisfaction with their health plans when compared to the national average.

### **Underwriting and Rating**

The examiners reviewed a random sample of 82 individual policies to determine if the company's underwriting, cancellation, and notification practices were compliant with Montana codes. The examiners were unable to find cancellation and certificate of creditable coverage notifications in 16 of the individual policy files examined. The examiners also noted that 60% of all certification of creditable coverage notifications provided by the company were issued late, after the required 10-day period, in violation of §§ 33-22-142 (1) (a) and 33-22-121, MCA.

The examiners also reviewed 36 small group policy files to determine if the company's underwriting, cancellation, and notification practices were compliant with Montana codes. The examiners found three files that were missing cancellation notifications and the required certificate of creditable coverage notification in violation of §§ 33-22-142 and 33-22-530, MCA. The examiners also found 15 policy files that contained late certificate of creditable coverage notifications in violation of § 33-22-142 (1) (a) MCA.

During the course of the examination, it was discovered the NWHS underwriting department was requiring small group policyholders to provide a UI-5 form in order to underwrite or renew a policy. Montana ARM 6.6.5058 only requires the insured to provide a list, not specifically a UI-5 form, and, therefore, it appears NWHS has imposed a condition not supported by law or administrative rule.

### **Utilization Review**

The Company filed a Utilization Review Plan with the Department of Insurance on August 29, 2002. A new Utilization Review Plan that replaced the August 29, 2002, version in its entirety was filed with the Department of Insurance on September 27,



2004. On February 28, 2006, the company filed revisions to the August 29, 2004, Utilization Review Plan pursuant to § 33-32-103, MCA.

### Claims

Claim samples were selected and reviewed for timeliness of payment, adherence to the mandated benefit requirements, and other compliance issues. The ACL was used to determine a valid sample size based upon a 90% confidence level, an 8% upper error limit and an expected error rate of 1%. The sample size was determined to be 49 claims with a tolerable error rate of 1. The ACL was used to select 25 professional and 25 dental claim files for each of the partial years 2003 and 2006, and 50 professional and 50 dental claim files for each of the years 2004 and 2005. Selected also were 100 institutional claim files for the same time period, July 1, 2003, thru March 31, 2006. The following "exception" table illustrate the number of errors found during this review.

File Type	# Claims Reviewed	# Exceptions	Percentage
Dental Claims	150	10	6%
Professional Claims	150	12	8%
Institutional Claims	100	6	6%

Based upon the sampling criteria, only one error should have been found per 49 claim files reviewed. It appears more than one error per 49 claim files was identified which would suggest NWHS was experiencing excessive claims processing errors during the time period covered by this examination.

Specific claim samples were also selected from the total claim population to test for compliance with the mandated benefits required by Title 33 MCA. The following table illustrates the findings of these targeted examinations.

Mandated Benefit	# Claims Reviewed	Exceptions	Percentage
Drug Addiction	23	0	0
Alcohol Addiction*	37	4	11%
Mental Health	134	1	.7%
Well Child Care	77 denied claims	1	1%
Newborns & Mothers	88	0	0
Breast Reconstruction	82	0	0
Diabetes	100	2	2%
Physical Therapy	60	0	0
Mammography**	190	37	19%

\*§ 33-22-703, MCA

\*\*§ 33-22-132, MCA



Again, based upon the sampling criteria, only one error should have found per 49 claims reviewed. It appears more than one error per 49 claims was identified for alcohol addiction and mammography claims which would suggest NWHS was experiencing excessive claim processing errors for alcohol addiction and mammography claims during the time period covered by this examination.

During the course of this examination, the New West Claims Manager was provided with a list of mammography and dental claim exceptions. The Claims Manager agreed to come to Helena and review the exceptions with each examiner. During the course of the review, many claim errors were discovered and corrected. The Claims Manager reprocessed the questionable claims in the examiners' presence and resubmitted them for additional payment.

The examiners also asked the Claims Manager if he could run a program that would identify all similar claims that may have been processed incorrectly. The Claims Manager informed the examiners the company's system could not perform such a task. The examiners were told the only way the company can discover a claim processing error is when a complaint from a provider or a subscriber is received by the company and a manual review of the claim is performed.

Apparently when NWHS switched from Trizetto Claim Handling Service to *Diamond*, a claim processing program provided by Health Systems Design Corporation which is a wholly owned subsidiary of Perot Systems Corporation, NWHS began experiencing a large number of claim processing problems. According to the Claims Manager, there was a large number of configuration errors that were made during the switch from Trizetto to *Diamond* and NWHS was unable to determine at that time which claims had been processed correctly as there was no way to run a claim check for certain configuration errors. The Claims Manager informed the examiners NWHS was relying on provider and customer feedback to determine when a possible error was made in the processing of a claim.

The examiners noted 37 errors in a sample of 190 mammography claims. The company identified a computer configuration problem and has since changed its method of processing this type of claim.

Section 33-36-201, MCA requires managed care plans to maintain a sufficient number of network providers. Whenever the network does not include the type or number of providers necessary, the managed care plan is required to provide care by an out of network provider at no greater cost to the member. During the course of this examination, every managed care claim outside the network was reviewed and all claims outside the network were paid as billed. There were no exceptions regarding the ability to obtain care from a provider outside the network. All claims were paid as billed; thus, no member paid more for services outside the network than if there had been a participating provider available.



### **Conclusion**

The market conduct examination report of New West Health Services and New West Health Plan is respectfully submitted to the Honorable Monica Lindeen, State Auditor and Commissioner of Insurance and Securities of the State of Montana.

The examiners wish to express their appreciation for the courteous and prompt cooperation and assistance of the officers and employees of the company during the course of the examination. We would also like to give special recognition and thanks to Alissa Beattie for her prompt and courteous assistance as the company examination liaison.

## AFFIDAVIT OF EXAMINERS

STATE OF MONTANA )  
 ) ss.  
COUNTY OF LEWIS AND CLARK )

David Drynan, A/E, and John Holbrook, A/E, being duly sworn, depose and say:

That they are examiners representing the State Auditor and Commissioner of Insurance, state of Montana; that pursuant to authority vested in them by the Commissioner, they examined the market conduct of New West Health Services and New West Health Plan of Helena, Montana for the period from April 1, 2002 to March 31, 2006.

That to the best of our information, knowledge and belief, the attached report of the examination is a true and correct report of the market conduct affairs and operations of New West Health Services and New West Health Plan as of March 31, 2006.

DATED this 2 day of July, 2009.

David Drynan, AIE

*John Holbrook*  
John Holbrook, AIE

SUBSCRIBED AND SWORN to before me this 2 day of July, 2009.

Printed Name: DARIA SAUTTER  
Notary Public for the state of Montana  
Residing at Helena, Montana  
My Commission expires 4/14/2010